

**HAMILTON HEIGHTS BLOCK 17, LOT 2A, AP (BUNDY)
THREE-LOT MINOR SUBDIVISION**

STAFF REPORT FOR PLANNING BOARD

CASE PLANNER: Tristan Riddell

**REVIEWED AND
APPROVED BY:** Renee Van Hoven

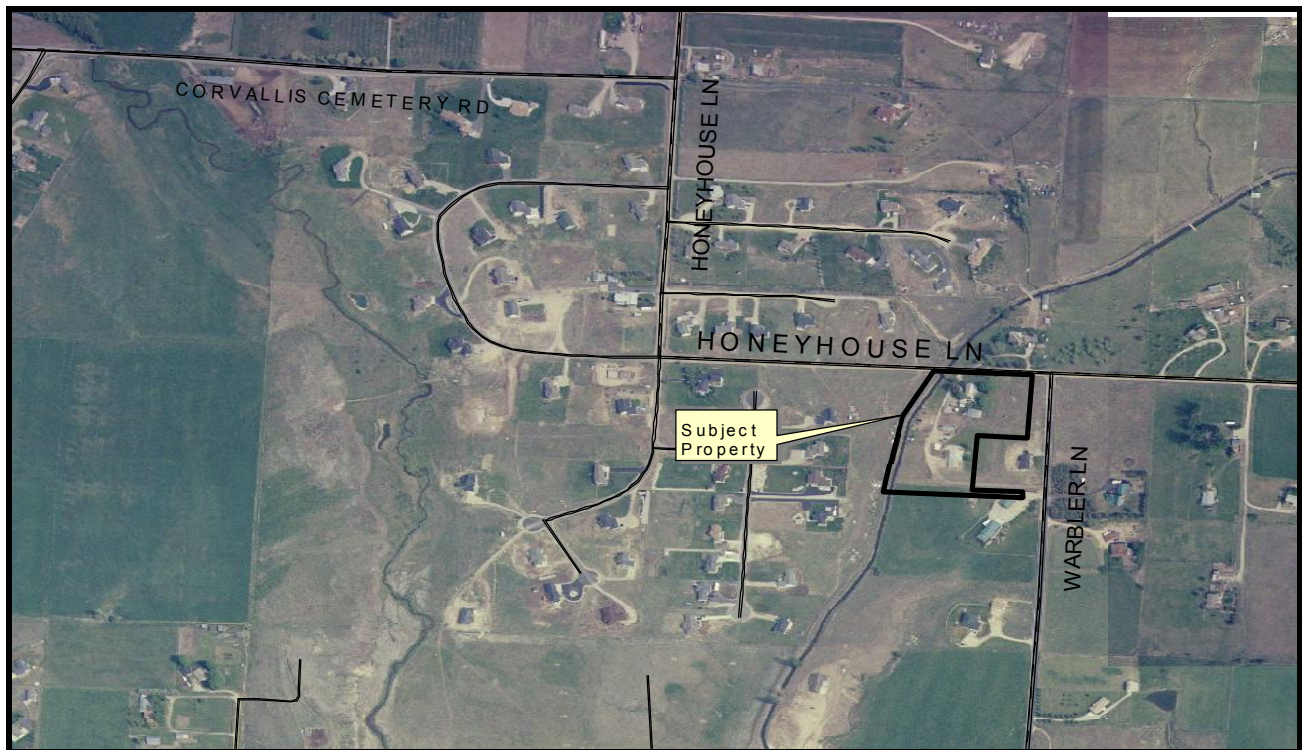
**PUBLIC HEARINGS,
MEETINGS AND
DEADLINES:**

Planning Board public hearing:	April 19, 2006
Deadline for Planning Board recommendation to BCC:	May 17, 2006
BCC public meeting (tentative):	9:00am May 16, 2006
Deadline for BCC action (35 working days):	June 8, 2006

APPLICANT / OWNER: Russell Bundy
807 Honey House Lane
Corvallis, MT 59828

REPRESENTATIVE: Steve Powell with Powell Surveying, 363-6389

LOCATION OF REQUEST: The property is located approximately 2 miles southeast of Corvallis near the intersection of Honeyhouse Lane and Warbler Lane.
(Map1)



Map 1: Location Map

(Source Data: Ravalli County Planning Department)

**LEGAL DESCRIPTION
OF PROPERTY:**

Lot 2A of Block 17, Hamilton Heights Subdivision, located in the NE $\frac{1}{4}$, Section 9, T6N, R20W, P.M.M., Ravalli County, Montana.

**APPLICATION
INFORMATION:**

The subdivision application was determined complete on March 30, 2006. Agencies were notified of the subdivision and comments received from agencies not included in the application packet are Exhibits A-1 through A-4 of the staff report.

LEGAL NOTIFICATION:

A legal ad was published in the Ravalli Republic on April 4, 2006. Notice of the project was posted on the property and adjacent property owners were notified of the subdivision by certified mail postmarked April 4, 2006. No public comments have been received to date.

**DEVELOPMENT
PATTERN:**

Subject property	Residential
North	Residential
South	Large lot residential
East	Large lot residential
West	Residential

RAVALLI COUNTY PLANNING BOARD

APRIL 19, 2006

HAMILTON HEIGHTS BLOCK 17, LOT 2A, AP (BUNDY) THREE-LOT MINOR SUBDIVISION

RECOMMENDED MOTION

That the Hamilton Heights Block 17, Lot 2A, AP (Bundy) minor subdivision *be **approved***, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

RECOMMENDED MITIGATING CONDITIONS OF APPROVAL

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

Notification of Proximity to Agricultural Operations. This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. *(Effects on Agriculture)*

Notification of Irrigation Easements. Within this subdivision there are irrigation easements, as shown on the final plat. All downstream water right holders have the right to maintain and repair their irrigation facilities/diversion structures whenever necessary to keep them in good condition. The Daly Ditches Irrigation District must approve any relocation or alteration (e.g. installation of a culvert) of irrigation ditches/pipelines. Any act which damages or destroys a ditch, interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance is expressly prohibited. The downstream water right holders and those acting with the approval of the Daly Ditches Irrigation District have the right to use the easements to maintain the ditches. Please contact the Daly Ditches Irrigation District, 566 Tammany Lane, Hamilton, Montana, 59840, 363-1130 for more information. *(Effects on Agricultural Water User Facilities)*

Limitation of Access onto a County Road. A "no ingress/egress" restriction is located along the Honeyhouse Lane and Warbler Lane frontages of the subdivision, which precludes vehicular access onto these County-maintained roads, excepting the approved approaches for the lots. This limitation of access may be lifted or amended with approval of the County. *(Effects on Local Services)*

2. Protective covenants to be filed with the final plat shall include the following provisions:

Living with Wildlife. (See Exhibit A-1 for required provisions.) *(Effects on Agriculture, Effects on Wildlife and Wildlife Habitat)*

Waiver of Protest to Creation of RSID/SID. Owners and their successors in interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to creating and/or improving a community water or wastewater treatment system and improving and/or maintaining the roads that

access the subdivision, including related right-of-way, drainage structures, and traffic control signs. *(Effects on Local Services)*

Access Requirements for Lots within this Subdivision. The Corvallis Rural Fire District has adopted the Uniform Fire Code. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 20', a vertical clearance of 13'6", maximum grade of 6%, and an all weather surface that can accommodate the weight of a fire truck to meet requirements of the Uniform Fire Code. Please contact the Corvallis Rural Fire District at PO Box 13, Corvallis, MT, for further information on the requirements of the Corvallis Rural Fire District and/or the Uniform Fire Code. *(Effects on Local Services & Effects on Public Health and Safety)*

Required Posting of County-Issued Addresses for Lots within this Subdivision. The Corvallis Rural Fire District has adopted the Uniform Fire Code which requires the lot owners to post County-issued addresses at the intersection of the driveways leading to the residences and the roads providing access as soon as construction on the residences begins. *(Effects on Local Services & Effects on Public Health and Safety)*

Primary Heat Source. The primary heat source for the newly constructed residences in this subdivision shall be at least 75% efficient. *(Effects on Natural Environment)*

Control of Noxious Weeds. Lot owners shall control the growth of noxious weeds on their respective lot(s). *(Effects on Natural Environment)*

Lighting for New Construction. Full cut-off lighting shall be required for any new construction within this subdivision. A full cut-off fixture means fixtures, as installed, that are designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light emitted. The source of light is fully shielded, top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. Spotlighting of flag poles shall be permitted. *(Effects on Public Health & Safety)*

Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. *(Effects on Public Health and Safety)*

Maintenance of Fencing from the Hedge Ditch. The owners of Lots 2A-1 and 2A-3 shall be responsible for maintaining the safety fencing located along the boundary of the lots. Each lot owner shall be responsible for maintaining the portion of the fence on their lot to meet the specifications in Section 5-6-2(b) of the Ravalli County Subdivision Regulations. *(Effects on Public Health and Safety)*

Amendment. The covenants filed with the final plat shall state that written Governing Body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. *(Effects on all six criteria)*

3. The subdividers shall include an RSID/SID waiver in a notarized document filed with the subdivision plat that states the following: Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners and any successors in interest to any future

RSID/SID, based on benefit, for a community wastewater system, community water system, or upgrading roads leading to or within the subdivision, including but not limited to paving, curbs and gutters, non-motorized transportation facilities, street widening, and drainage facilities. *(Effects on Local Services)*

4. The applicants shall provide evidence that a financial contribution (to be decided by the Planning Board) has been contributed to the Corvallis School District prior to final plat approval. *(Effects on Local Services)*
5. The applicants shall provide a letter from the Corvallis Rural Fire District stating that they have provided the required 1,000 gallons per minute water supply or 2,500 gallons per minute water storage for fire protection for each lot within this subdivision. Alternatively, the applicant may provide evidence that a \$500 contribution per lot was made to the Corvallis Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. *(Effects on Local Services - Fire Protection & Effects on Public Health and Safety)*
6. Proposed irrigation easements shall be shown on the final plat as shown on the preliminary plat. *(Effects on Agricultural Water User Facilities)*
7. The final plat shall show a no ingress/egress zone along the Honeyhouse Lane and Warbler Lane frontages of the subdivision, excepting the approaches for the lots approved by the County Road Department. *(Effects on Local Services)*
8. The applicants shall provide for an additional ten feet of public road and utility easement along the Honeyhouse Lane frontage and an additional fifteen feet of public road and utility easement along the Warbler Lane frontage of the subdivision on the final plat. *(Effects on Local Services)*
9. The applicants shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision, in accordance with E-911 addressing policy. *(Effects on Local Services & Effects on Public Health and Safety)*

INTRODUCTION

The Hamilton Heights, Block 17, Lot 2A, AP, a three-lot subdivision of a 4.09 acres, has two existing residences and is located southeast of Corvallis. The property is located within the Corvallis Rural Fire District and the Corvallis School District. There is an existing house, bunkhouse, and two garages on Lot 2A-1, a house, carport, and shed on Lot 2A-3, and a single family residence is proposed on Lot 2A-2. The property has water rights through the Daly Ditches Irrigation District, which are proposed to be divided between the three lots.

Staff recommends conditional approval of the subdivision proposal.

SUBDIVISION REPORT

COMPLIANCE WITH PRIMARY SUBDIVISION REVIEW CRITERIA

CRITERION 1: EFFECTS ON AGRICULTURE

Findings of Fact:

1. The proposed minor subdivision on 4.09 acres will result in 3 lots that range in size from 1.00 to 2.00 acres.
2. The property is located approximately 1.5 miles southeast of Corvallis in an area where there is a mix of agricultural and residential uses. To mitigate impacts on nearby agricultural practices, a notification of agricultural operations shall be filed with the final plat and the covenants shall include a provision requiring owners to control domestic pets. (Conditions 1 & 2 – in Living with Wildlife section)
3. There are no Prime Farmland Soils or Soils of Statewide Importance associated with this property.

Conclusion of Law:

With the mitigating conditions, impacts on agriculture will be minimized.

CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES

Findings of Fact:

1. According to the application, the property has water rights from the Hedge Ditch, which are distributed by the Daly Ditches Irrigation District. The approximately four acres currently under irrigation are proposed to be divided among the lots.
2. Based on recent discussions with DNRC-Water Resources and the Daly Ditches Irrigation District, it is understood that irrigation water rights are held by Daly Ditches Irrigation District, not by the property. Consequently, a master irrigation plan is not required for this subdivision and installation of irrigation facilities in accordance with Section 5-6-3 is also not required.
3. As a requirement of final plat approval, Section 3-3-4 (c) (25) of the Ravalli County Subdivision Regulations requires the approval of the irrigation district when irrigation ditches/pipelines are to be altered.
4. The preliminary plat shows a 10-foot wide proposed irrigation easement traversing Lot 2A-1. As a requirement of final plat approval, the Ravalli County Subdivision Regulations require that all easements/rights-of-way located on the property be shown on the final plat. In order to mitigate impacts on agricultural water user facilities and to ensure the irrigation easement is on the final plat, a notification of the easement shall be included in the Notifications document and the final plat shall show the irrigation easement, as proposed on the preliminary plat. (Conditions 1 & 6)

Conclusion of Law:

With the mitigating conditions and the requirements of final plat approval, impacts to agricultural water user facilities will be minimized.

CRITERION 3: EFFECTS ON LOCAL SERVICES

Findings of Fact:

1. The pro rata share for substandard County-maintained road(s) that provide access to this subdivision from Eastside Highway shall be paid by the applicant prior to final plat approval, as required by the Subdivision Regulations.
2. Honeyhouse Lane and Warbler Lane are County-maintained roads that provide direct access to the subdivision. The easement for Honeyhouse Lane along the subdivision frontage is 40

feet wide and the easement for Warbler Lane is 30 feet wide. To mitigate impacts on local services, the applicant shall provide for an additional 10 feet of public road and utility easement along the Honeyhouse Lane frontage and an additional 15 feet of public road and utility easement along the Warbler Lane frontage. (Condition 8)

3. The applicant is proposing that the existing driveway continue to access Lot 2A-1 and a new approach, which has already been constructed and approved by the Road Department, access Lot 2A-2. Both of the accesses will be off Honeyhouse Lane. Lot 2A-3 is proposed to access off an existing approach to Warbler Lane. Approach permits, as approved by the Road Department, are required to be submitted prior to final plat approval.
4. The preliminary plat shows a no-ingress/egress strip located along the Honeyhouse Lane and Warbler Lane frontages of the subdivision, excepting the approach locations, as approved by the Road Department, for the accesses. To mitigate impacts of the subdivision on the public road system, this restriction shall be shown on the final plat and a notification of this access restriction shall be included in the Notifications Document filed with the final plat. (Conditions 1 & 7)
5. Individual water and wastewater treatment systems are proposed to serve the lots (Effects on Natural Environment). To mitigate potential impacts of this subdivision on any possible future public water, public sewer system, or the road system, the RSID/SID waiver filed with the final plat shall address these systems. (Conditions 2 & 3)
6. Bitterroot Disposal provides disposal service to this area.
7. The applicant is proposing a contribution to the Corvallis School District, but did not specify the amount. To mitigate impacts of the proposal on the School District, the applicants shall contribute an amount per lot (to be determined by the Planning Board) to the Corvallis School District prior to final plat approval. (Exhibit A-2 & Condition 4)
8. The subdivision is located within the Corvallis Rural Fire District, which has provided general comments on subdivision proposals, indicating they have adopted a policy which addresses access, posting of addresses, and water supply requirements. Conditions of approval will meet the recommendations of the Corvallis Rural Fire District. (Exhibit A-3 & Conditions 2 & 5)
9. The Ravalli County Sheriff's Office provides law enforcement services to this area.
10. Public Services are adequate for this subdivision.

Conclusion of Law:

With the mitigating conditions and requirements of approval, impacts on local services will be minimized.

CRITERION 4: EFFECTS ON THE NATURAL ENVIRONMENT

Findings of Fact:

1. Individual wells and wastewater treatment systems are proposed to serve lots within the subdivision and adequate information has been provided to the Environmental Health Department for local subdivision review to occur (Exhibit A-4). A Certificate of Subdivision Approval from the Montana Department of Environmental Quality is a requirement of final plat approval.
2. To mitigate air pollution resulting from home heating emissions, the protective covenants filed with the final plat shall state that the primary heat source for any newly constructed residences must be at least 75% efficient. (Condition 2)
3. A noxious weed and vegetation control plan is required to be filed with the final plat for ground disturbance associated with a subdivision. According to MCA 7-22-2152, any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district, shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, *such*

as road construction, the plan shall be submitted to the weed board for approval from the board. To mitigate impacts on the natural environment, a noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)

Conclusion of Law:

With the mitigating conditions and the requirements for final plat approval, impacts from this subdivision on the natural environment will be minimized.

CRITERION 5: EFFECTS ON WILDLIFE AND WILDLIFE HABITAT

Findings of Fact:

1. The property is not located within the FWP-identified big game winter range and no species of special concern have been identified in the vicinity of the subdivision.
2. The FWP comment letter recommends including Living with Wildlife provisions in the covenants for this subdivision. (Exhibit A-1 & Condition 2)

Conclusion of Law:

With the condition of approval, impacts of the proposed subdivision on wildlife will be mitigated.

CRITERION 6: EFFECTS ON PUBLIC HEALTH AND SAFETY

Findings of Fact:

1. The proposed subdivision is located within the Corvallis Rural Fire District and with Conditions 2 & 5, impacts to the District will have been addressed.
2. Lots will be served by individual wells and wastewater treatment systems. (Natural Environment)
3. To mitigate the general impacts of this subdivision on public health and safety, the subdivider shall apply for County-issued addresses for each lot within this subdivision. A provision shall be included in the protective covenants requiring property owners to post County-issued addresses at their driveways to enhance provision of emergency services. (Conditions 2 & 9)
4. Unfenced irrigation supply ditches pose a significant and tangible threat to young children when located within a residential setting. The Hedge Ditch is considered an irrigation supply ditch, as opposed to a lateral ditch or smaller ditch, in which case the fencing requirement of Section 5-6-2 applies and fencing of the Ditch in accordance with the Regulations is a requirement of final plat approval. To mitigate impacts to public health and safety, the covenants shall include a provision requiring the maintenance of the fencing along the Hedge Ditch. (Condition 2)
5. To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision requiring full cut-off lighting with the exception of flag poles. (Condition 2)
6. There is a prevalence of radon in the County and to mitigate impacts on public health and safety, the covenants for this property shall include a statement regarding radon exposure. (Condition 2)
7. According to the subdivision application, there are no other known hazards that are on or adjacent to the property that may significantly affect public health and safety.

Conclusion of Law:

The mitigating conditions and requirements of final plat approval address impacts of this subdivision on public health and safety.

COMPLIANCE WITH:**1) THE SURVEY REQUIREMENTS PROVIDED FOR IN PART 4 OF M.C.A. 76-3.****Finding of Fact:**

The Seal of a Professional Land Surveyor or Engineer is required on all final plats, which states that the subdivision complies with part 4 of M.C.A. 76-3.

Conclusion of Law:

This proposal meets the survey requirements or conditions have been required to bring the proposal into compliance.

2) THE LOCAL SUBDIVISION REGULATIONS PROVIDED FOR IN PART 5 OF M.C.A. 76-3.**Finding of Fact:**

Subdivisions are required to comply with the local subdivision regulations provided for in part 5 of M.C.A. 76-3.

Conclusion of Law:

The developer has submitted a plan which complies with the requirements of local subdivision regulations or conditions have been required that will bring the plan into compliance.

**3) THE LOCAL SUBDIVISION REVIEW PROCEDURE PROVIDED FOR IN THE RAVALLI COUNTY
SUBDIVISION REGULATIONS****Findings of Fact:**

1. Subdivisions are required to comply with the local subdivision review procedure provided for in the Ravalli County Subdivision Regulations.
2. A decision of the governing body rejecting or approving a proposed subdivision may be appealed to the district court within thirty (30) days of such decision. The petition shall specify the grounds upon which the appeal is made. An appeal may be made by the subdivider; a landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within the unincorporated area of the county that can show a likelihood of material injury to the landowner's property or its value; a first class municipality if the subdivision is within three miles of its limits, a second class municipality if a subdivision is within two miles of its limits, a third class municipality or town if the subdivision is within one mile of its limits. An aggrieved party means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision.

Conclusion of Law:

This development plan proposal has followed the necessary application procedure and has been reviewed within the procedures provided in Chapter 3 of the Ravalli County Subdivision Regulations.

CONSISTENCY WITH EXISTING ZONING AND COVENANTS**Findings of Fact:**

1. The property is not located within a Zoning District.
2. There are no existing covenants on the property.

Conclusion of Law:

There is no zoning or covenants for this property.

PROVISION OF EASEMENTS FOR UTILITIES

Findings of Fact:

1. The plat indicates utility easements are located along Honeyhouse Lane and Warbler Lane.
2. According to the application, the proposed subdivision will be served by Quest Communications and Ravalli Electrical Cooperative. Utility Certificates are a requirement of final plat approval.

Conclusion of Law:

Utility services will be available to this subdivision.

PROVISION OF LEGAL AND PHYSICAL ACCESS

Findings of Fact:

1. The Road Department has not yet determined the most logical route to this property from Eastside Highway. All possible routes consist of County-maintained roads.
2. Lots 2A-1 and 2A-2 will access directly off Honeyhouse Lane and Lot 2A-3 will access directly Off Warbler Lane.

Conclusion of Law:

With the conditions of approval and the requirements of final plat approval, the proposal meets physical and legal access requirements.